

# **EXHIBIT C**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

BODO PARADY, as Special Administratrix  
Of the Estate of SABINA PARADI and BODO  
PARADY and MARY MOORE, individually

Plaintiffs,

Civil Action No.

-against- 07 CIV 3640 (JCF)

MICHAEL R. PHILLIPS,

Defendant.

December 18, 2007

12:22 p.m.

Videotaped Deposition of MARIA EBERLINE,  
non-party witness, taken by Plaintiff, pursuant  
to Notice, at the offices of Merrill Legal  
Solutions, 25 West 45 Street, New York, New  
York, before Jowell Falsetta, a Shorthand  
Reporter and Notary Public within and for the  
State of New York.

1  
2 A P P E A R A N C E S:  
3  
4

5 DE CARO & KAPLEN

6 Attorneys for Plaintiffs

7 427 Bedford Road

8 Pleasantville, New York 10570

9 BY: MICHAEL V. KAPLEN, ESQ.

10

11

12 JAMES D. BUTLER, ESQ

13 Attorneys for Defendant

14 591 Summit Avenue

15 Jersey City, New Jersey 07306

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18

19 ALSO PRESENT:

20 JOHN HAGIN, Videographer

21

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23

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## SYNTHETIC POLY(URIDYLIC ACID)

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IS HEREBY STIPULATED AND AGREED

By and between the attorneys for the respective parties herein, and in compliance with Rule 221 of the Uniform Rules for the Trial Courts

5

THAT the parties recognize the provision  
of Rule 3115 subdivisions (b), (c) and/or (d).

6

All objections made at a deposition shall be noted by the officer before whom the deposition is taken, and the answer shall be given and the deposition shall proceed subject to the objections and to the right of a person to apply for appropriate relief pursuant to Article 31 of the CPLR.

THAT every objection raised during a deposition shall be stated succinctly and framed so as not to suggest an answer to the deponent and, at the request of the questioning attorney, shall include a clear statement as to any defect in form or other basis of error or irregularity. Except to the extent permitted by CPLR Rule 3115 or by this rule, during the course of the examination persons in attendance shall not make statements or comments that interfere with the questioning.

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1  
2 THAT a deponent shall answer all  
3 questions at a deposition, except (i) to  
4 preserve a privilege or right of  
5 confidentiality, (ii) to enforce a limitation  
set forth in an order of a court, or (iii) when  
the question is plainly improper and would, if  
answered, cause significant prejudice to any  
person.

6 An attorney shall not direct a  
7 deponent not to answer except as provided in  
8 CPLR Rule 3115 or this subdivision. Any refusal  
9 to answer or direction not to answer shall be  
0 accompanied by a succinct and clear statement  
of the basis therefore. If the deponent does  
not answer a question, the examining party shall  
have the right to complete the remainder of the  
deposition.

1 THAT an attorney shall not  
2 interrupt the deposition for the purpose of  
3 communicating with the deponent unless all  
4 parties consent or the communication is made for  
the purpose of determining whether the question  
should not be answered on the grounds set forth  
in section 221.2 of these rules and, in such  
event, the reason for the communication shall be  
stated for the record succinctly and clearly.

6 THAT failure to object to any  
7 question or to move to strike and testimony at  
8 this examination shall not be a bar or waiver to  
make such objection or motion at the time of the  
trial of this action, and is hereby reserved;  
and

3 THAT certification and filing of  
4 the original of this examination are waived; and  
5 THAT the questioning attorney shall  
Provide counsel for the witness examined herein  
With a copy of this examination at no charge.

1 MARIA EBERLINE

2 THE VIDEOGRAPHER: This is the  
3 video operator, John Hagan speaking of  
4 Merrill Legal Solutions. Today is  
5 December 18, 2007, the time is 12:22  
6 p.m.

7 We are at the offices of  
8 Merrill Legal Solutions, 25 West 45  
9 Street, New York, New York, to take  
10 the videotaped deposition of Ms.  
11 Maria Eberline in the matter of Bodo  
12 Parady as special administrator of the  
13 estate of Sabina Paradi and Bodo  
14 Parady and Mary Moore individually  
15 versus Michael R. Phillips, in the US  
16 District Court Southern District of  
17 New York.

18 Counsel please introduce  
19 themselves for the record.

20 MR. KAPLEN: Good afternoon, my  
21 name is Michael Kaplen, I represent  
22 the plaintiffs in this case.

23 MR. BUTLER: Good afternoon,  
24 James D. Butler and I represent the  
25 defendant.

1 MARIA EBERLINE

2 THE VIDEOGRAPHER: The court  
3 reporter today is Jowell Falsetta of  
4 Merrill Legal Solutions. Will the  
5 reporter please swear the witness.

6 THE COURT REPORTER: Do you  
7 solemnly swear that the testimony you  
8 are about to give is the truth, whole  
9 truth and nothing but the truth?

10 THE WITNESS: I do.

11 THE VIDEOGRAPHER: Please  
12 begin.

13 Q. Good afternoon, Mr. Eberline.  
14 Again my name is Michael Kaplen, I represent  
15 the Parady family in connection with the  
16 injuries and death of their daughter  
17 concerning the incident that occurred on  
18 February 25, 2007. I am going to be asking  
19 you some questions about that incident today.

20 And you understand we are videotaping  
21 your deposition?

22 A. Yes.

23 Q. To be used in the course of the  
24 trial in this action.

25 Can you give us your address, please?

1 MARIA EBERLINE

2 A. Yes, it's 11250 Morrison Street,  
3 number 202, North Hollywood, California  
4 91601.

5 Q. How long have you lived there?

6 A. A year now.

7 Q. On February 25th of 2007 were  
8 you living there?

9 A. Yes.

10 Q. Okay.

11 And can you tell us please the nature  
12 of your business or occupation?

13 A. I'm an actress. I come back and  
14 forth between Los Angeles and New York for  
15 auditions, that is why I was in the city in  
16 February.

17 Q. Okay.

18 On February 25th of 2007 were you in  
19 the vicinity of Ninth Avenue and 37 Street?

20 A. Yes, I was.

21 Q. Before this incident took place,  
22 can you tell us where you were and what you  
23 were doing?

24 A. I was at In the Heights the  
25 musical, I was watching a show with my best

1 MARIA EBERLINE

2 friend.

3 Q. And who is that?

4 A. Sharlene Aquiler.

5 Q. And about what time did that  
6 show end?

7 A. Around 10:45 ish, 10:30 or so.

8 Q. And did you leave the theater at  
9 the end of the show?

10 A. Yes.

11 Q. And before that did you have  
12 anything to eat that night?

13 A. We had dinner prior to the show.

14 Q. And when you left the theater  
15 that night, can you tell us what the weather  
16 was like?

17 A. It was snowing very lightly,  
18 like light flurries.

19 Q. Was there any snow on the  
20 ground?

21 A. Light dusting of snow.

22 Q. By the way where was the theater  
23 located?

24 A. 37th and Ninth.

25 Q. When you left the theater, did

1 MARIA EBERLINE

2 you have a destination?

3 A. Yes, we was going to go back up  
4 to West Harlem where my best friend lives.

5 Q. Did you walk or did you take a  
6 cab or something else?

7 A. We had taken a cab to the  
8 theater and we were going to walk to Eighth  
9 and take a cab back up.

10 Q. The direction that you were  
11 going to take from theater to Eighth Avenue,  
12 could you tell us what that was?

13 A. Yes, from west to east.

14 Q. So you were walking on 37  
15 street?

16 A. Uh-hu.

17 Q. And did you eventually get to  
18 the corner of 37 Street and Ninth Avenue?

19 A. Yes.

20 Q. When you got to the corner of  
21 37th and Ninth Avenue, you were intending to  
22 cross the street from west to east?

23 A. Yes.

24 Q. Did you have to stop there for  
25 any period of time because of traffic

1 MARIA EBERLINE

2 signals?

3 A. Yes, we reached the crosswalk  
4 basically and we were waiting for the signal  
5 to turn and starting walking as soon as the  
6 light, crossing signal came on.

7 Q. Did you have anything in your  
8 hands, an umbrella or anything else?

9 A. No.

10 Q. How about your friend?

11 A. No.

12 Q. When you started to cross the  
13 street, were there any pedestrians walking in  
14 front of you?

15 A. No, we was the first.

16 Q. And as you were crossing the  
17 street, was the weather the same as when you  
18 left the theater?

19 A. Yes, it was a little heavier but  
20 it was still pretty -- I mean we could see  
21 in front of us and everything.

22 Q. Were you crossing within the  
23 crosswalk?

24 A. Yes.

25 Q. As you started to cross the

1 MARIA EBERLINE  
2 street, across Ninth Avenue, did any cars  
3 pass in front of you making any type of turn?

4 A. No, no.

5 Q. And as you were crossing the  
6 street, was the green signal in your favor  
7 for the entire time that you were crossing?

8 A. Yes, it was.

9 Q. As you were crossing that  
10 street, did your attention get directed to a  
11 pickup truck?

12 A. Yes about--

13 Q. Okay.

14 A. Yes.

15 Q. Where were you when your  
16 attention was directed to the pickup truck?

17                   A.     About three-quarters of the way  
18     across the street, I noticed the pickup truck  
19     on my left-hand side coming from the opposite  
20     direction.

22 A. Yes.

23 Q. What drew your attention to that  
24 pickup truck?

25 A. It looked like it was going a

1 MARIA EBERLINE

2 little bit fast.

3 Q. And do you have a driver's  
4 license?

5 A. Yes.

6 Q. How long have you been a driver?

7 A. 14 years.

8 Q. And were you able to estimate as  
9 best you could the speed of that pickup truck  
10 when your attention was drawn to it?

11 A. About 40 miles an hour or so.

12 Q. Did that pickup truck have any  
13 signal lights on?

14 A. Not that I noticed.

15 Q. After your attention was drawn  
16 to this pickup truck, what happened next?

17 A. We were about to hit the curb  
18 when I heard a scream, a really high-pitched  
19 shrill scream and then i heard a screech of  
20 tires and a thud.

21 Q. This scream that you heard, were  
22 you able to identify whether it was a male or  
23 female voice?

24 A. It was a female voice.

25 Q. Where was the scream coming

1 MARIA EBERLINE

2 from?

3 A. From behind me.

4 Q. When you say a high-pitched  
5 scream, what do you mean by that?

6 A. Very shrill, frightened scream.

7 Q. After you heard that scream the  
8 next thing you heard was a what?

9 A. Screech of tires.

10 Q. And following that did you hear  
11 anything else?

12 A. And then a thud.

13 Q. After you heard those sounds,  
14 did you do anything?

15           A.     My best friend and I both turned  
16     around in a panic and we kind of you know  
17     scurried to the curb and turned around and we  
18     saw the truck that had passed us and a body  
19     on the ground and a gentleman had kind of run  
20     around to see what happened.

21 Q. This truck that you saw, is this  
22 the same truck that you identified as going  
23 as you say going kind of fast?

24 A. Yes.

25 Q. And you saw somebody you said on

1 MARIA EBERLINE

2 the ground?

3 A. Uh-hu.

4 Q. And did you ever speak to that  
5 individual on the ground?

6 A. No.

7 Q. Did you ever speak to anybody  
8 that she was with?

9 A. No.

10 Q. Did you ever speak to the person  
11 that you saw scurrying around the truck?

12 A. No.

13 Q. Did you wait there until the  
14 police came?

15 A. Yes.

16 Q. Did you speak to the police?

17 A. Yes.

18 Q. And did they ask you what  
19 happened?

20 A. Yes.

21 Q. And did you tell them the same  
22 things that you are telling us today?

23 A. Yes.

24 Q. Did you ever speak to them again  
25 after this?

1 MARIA EBERLINE

2 A. No.

3 Q. Before you heard the scream or  
4 the screeching or the thud, did you hear the  
5 sound of any horn?

6 A. No.

7 Q. How long did you stay at the  
8 scene?

9 A. For about an hour.

10 Q. I'm going to show you a  
11 photograph that has been previously marked as  
12 Plaintiff's Exhibit 4 for identification on  
13 August 21st of 2007.

14 MR. BUTLER: May I see that,  
15 please?

16 MR. KAPLEN: Yes.

17 Q. And do you recognize what is  
18 depicted there?

19. A. Yes.

20 Q. Can you tell us what is depicted  
21 there?

22 A. This is Ninth Avenue and this is  
23 37(indicating).

24 Q. And is that a fair and accurate  
25 depiction, I understand it was snowing that

1 MARIA EBERLINE

2 night, but the intersection of how it looked?

3 A. Yes.

4 Q. When you were crossing the  
5 street, can you tell us, you were crossing  
6 from --

7 A. From this corner to this corner.

8 Q. From the H&R H Block to --

9 A. This to this corner

10 (indicating).

11 Q. By the way, the person that you  
12 saw on the ground following this, this was a  
13 female individual?

14 A. Yes.

15 Q. When was she within the  
16 crosswalk?

17 A. Yes.

18 Q. And did you notice her on the  
19 corner before you started to cross the  
20 street?

21 A. No, she was behind us so.

22 Q. Did you ever have any  
23 conversation with her before any of this took  
24 place?

25 A. No.

1 MARIA EBERLINE

2 Q. Did you know her?

3 A. No.

4 MR. KAPLEN: Thank you. I have  
5 no further questions.

6 THE WITNESS: Yes.

7 EXAMINATION BY MR. BUTLER:

8 Q. What is your telephone number in  
9 California?

10 A. (310) 804-3353.

11 Q. And you have an answering  
12 machine, do you not?

13 A. Yes, a service.

14 Q. A service, okay.

15 How did you first learn of this  
16 deposition being taken today?

17 A. I met with Mr. Kaplen about a  
18 month ago.

19 Q. Where?

20 A. Here in New York.

21 Q. Who arranged that meeting?

22 A. Mr. Kaplen did.

23 Q. Was that by reason of a  
24 telephone call made to you in California,  
25 made for a time when you were here in New

1 MARIA EBERLINE

2 York for an audition?

3 A. He actually contacted me while I  
4 was in New York.

5 Q. And where did you meet with him,  
6 I know it was in New York but where?

7 A. At 6162 Columbus Circle.

8 Q. What is there?

9 A. It is my boyfriend's apartment.

10 Q. What is your boyfriend's name?

11 A. Rick Adams.

12 Q. Was there anyone else there?

13 A. No.

14 Q. Did you give any kind of a  
15 written statement at that time?

16 A. No.

17 Q. Any kind of an oral statement  
18 that was recorded in any way?

19 A. No, not that I remember.

20 Q. It was just you and Mr. Kaplen?

21 A. Yes.

22 Q. Other than that meeting, have  
23 you ever meet with Mr. Kaplen?

24 A. No.

25 Q. Or anyone from his office?

1 MARIA EBERLINE

2 A. No.

3 Q. Did you talk to him today before  
4 this deposition?

5 A. Yes.

6 Q. For how long?

7 A. About 20 minutes.

8 Q. Where was that?

9 A. That was at the Princeton Club.

10 Q. On 45 Street?

11 A. Yes, 43, 43.

12 Q. And how was that arrangement  
13 made, who made that arrangement?

14 A. Mr. Kaplen and I.

15 Q. Was anybody else there besides  
16 the two of you?

17 A. Nope.

18 Q. You received telephone calls  
19 while in California at this number from an  
20 investigator from my office; did you not?

21 A. I received one phone call.

22 Q. You didn't return it?

23 A. No, I did not.

24 Q. Was there a reason why you  
25 didn't return it, when you did speak with

1 MARIA EBERLINE

2 Mr. Kaplen, didn't you think it would be only  
3 fair to speak to both sides?

4 MR. KAPLEN: Objection.

5 Q. You could answer.

6 A. Yes but I was also very busy at  
7 the time and it just sort of slipped my mind.

8 Q. That call was made months ago,  
9 was it not? As a matter of fact it was  
10 several calls but the one you are speaking of  
11 was made months ago?

12 A. I only remember one phone call  
13 and I believe it was a couple of weeks before  
14 I came out here again. So I think it was  
15 only about three weeks ago.

16 Q. Did you make any effort to  
17 respond to that call knowing that it was on  
18 behalf of the driver of the car?

19 A. No, I did not.

20 Q. Were you instructed by anybody  
21 not to?

22 A. No, I was not instructed.

23 Q. Were you advised that maybe you  
24 shouldn't do so?

25 A. No, I was not.

1 MARIA EBERLINE

2 Q. Now, you identified the  
3 photograph here at Ninth and 40 --

4 A. 37 street.

5 Q. 37 Street I am sorry.

6 Have you been there on a number of  
7 occasions before?

8 A. No.

9 Q. How many times were you at that  
10 intersection before that night?

11 A. I believe that was the first  
12 time.

13 Q. Have you been there since?

14 A. No, not that I recall.

15 Q. Now the theater that you went to  
16 when you saw In The Heights, that theater has  
17 two parts, does it not, there are two  
18 theaters?

19 A. I believe so.

20 Q. Okay. And there were two shows  
21 that night?

22 A. Uh-hu.

23 Q. And there is another theater the  
24 Zipper theater along that street; is there  
25 not?

1. MARIA EBERLINE

2. A. I guess, I am not really  
3. familiar with that area.

4. Q. Do you know how many theaters  
5. there are on that street?

6. A. No.

7. Q. However many there are, there  
8. are theaters that are letting out at that  
9. same time, are there not?

10. A. Yes.

11. Q. And so there were a number of  
12. people walking on 37 Street?

13. A. Yes.

14. Q. Okay.

15. Now when you were in the theater, did  
16. you see the woman who was involved in the  
17. accident and/or her escort?

18. A. No.

19. Q. Did you see them as you were  
20. leaving the theater?

21. A. No.

22. Q. Did you see them as you were  
23. walking along from the theater up to Ninth  
24. Avenue?

25. A. No, I did not.

1 MARIA EBERLINE

2 Q. And the theater is much closer  
3 to Tenth Avenue, isn't it on 37 Street?

4 A. Yes.

5 Q. As a matter of fact it is almost  
6 at Tenth?

7 A. Yes, almost at Tenth.

8 Q. So you walked the entire block?

9 A. Yes.

10 Q. You said you were the first one?

11 A. In that group at the crosswalk.

12 Q. Let me ask you this, did you  
13 stay for the encore?

14 A. Actually I believe we left  
15 during.

16 Q. During the encore?

17 A. Yes.

18 Q. Did others leave at that time  
19 also?

20 A. Not that I saw.

21 Q. As you were walking along there,  
22 were others walking -- none walking in front  
23 of you, is that right? Was there anyone in  
24 front of you?

25 A. There might have been, there

1 MARIA EBERLINE

2 might have been a few people but I honestly  
3 don't remember.

4 Q. I understand.

5 Were there people walking behind you?

6 A. Yes.

7 Q. Do you know how close behind  
8 you?

9 A. I mean as we were getting out,  
10 there were just a lot of people on the street  
11 so.

12 Q. And a number of those would have  
13 been walking towards Ninth Avenue?

14 A. Yes.

15 Q. As you walked along, there was  
16 snow on the ground?

17 A. Yes, light dusting of snow.

18 Q. And it was also slushy?

19 A. Yes.

20 Q. So you walked very carefully?

21 A. Yes.

22 Q. What kind of shoes did you have  
23 on?

24 A. I think boots but I don't  
25 remember what I had on.

1 MARIA EBERLINE

2 Q. Something that you could grab  
3 the ground, rubber or something?

4 A. Yes.

5 Q. And your friend same thing  
6 Sharlene also?

7 A. Yes.

8 Q. You mentioned before you were  
9 not carrying an umbrella?

10 A. No.

11 Q. You or Sharlene?

12 A. No.

13 Q. Did you have any headgear?

14 A. Hat and scarf.

15 Q. Sharlene the same?

16 A. Yes.

17 Q. Was the scarf up around your  
18 head?

19 A. No, around my neck.

20 Q. How about the hat, was hat on  
21 top of your head?

22 A. Yes.

23 Q. Did it cover your ears?

24 A. No, I don't think so.

25 Q. And it was snowing during this

1 MARIA EBERLINE

2 entire time?

3 A. Uh-hu.

4 Q. Now, the people who were walking  
5 there, were they both male and female, men  
6 and women?

7 A. All around me?

8 Q. Yes.

9 A. Yes.

10 Q. At any time before this accident  
11 did you notice the young lady who was  
12 involved in the accident?

13 A. No.

14 Q. Or her escort?

15 A. No.

16 Q. Approximately how long did it  
17 take you to walk from the theater to the  
18 corner of Ninth Avenue?

19 A. Maybe a minute.

20 Q. And were there any cars  
21 proceeding west on 37 Street as you were  
22 walking along?

23 A. I don't remember.

24 Q. And when you got to the  
25 intersection, I believe that you said that

1 MARIA EBERLINE

2 you and Sharlene were the first ones there?

3 A. Uh-hu.

4 Q. What was the status of the walk,  
5 don't walk signal when you got there?

6 A. When we get there it was a don't  
7 walk signal.

8 Q. Don't walk?

9 A. Uh-hu.

10 Q. For how long did you wake for  
11 the walk?

12 A. About 15, 20 seconds.

13 Q. And from don't walk, did it turn  
14 to something?

15 A. Yes, it turned to the walking  
16 sign and we proceeded to walk right after it  
17 turned.

18 Q. At the corner and I believe you  
19 said, I'm now pointing to the corner by H&R  
20 Block, I believe that was the corner you said  
21 you were coming from?

22 A. Yes.

23 Q. There is a pole there, which  
24 side of the pole were you on?

25 A. I believe we were on this side

1 MARIA EBERLINE

2 of the pole in-between this (indicating).

3 Q. Indicating as you're looking at  
4 the photograph P4 on the left side of the  
5 pole?

6 A. Yes.

7 Q. Or the inside so to speak?

8 A. On the inside, yes.

9 Q. As you were waiting there for  
10 that 15 or 20 seconds, did the other people  
11 catch up with you when they were waiting  
12 also?

13 A. I honestly don't remember.

14 Q. Was there anyone on the other  
15 side of the pole as you were waiting?

16 A. I think there might have been a  
17 group of people approaching us, but I don't  
18 really remember.

19 Q. When you were at dinner, did you  
20 have anything of an alcoholic nature?

21 A. No.

22 Q. Did you have any that day  
23 alcohol?

24 A. Pardon?

25 Q. Did you have any alcohol that

1 MARIA EBERLINE

2 day?

3 A. No.

4 Q. How about Sharlene?

5 A. I don't believe so. She is a  
6 school teacher so.

7 Q. Okay. Were there other people  
8 with umbrellas?

9 A. I honestly don't remember.

10 Q. And was it windy?

11 A. Not really windy, no.

12 Q. You don't remember wind coming  
13 blowing the snow?

14 A. No, just cold.

15 Q. Okay. Were you on the left or  
16 right side of Sharlene as you were crossing  
17 the street?

18 A. I was on the left side.

19 Q. And approximately how far was  
20 Sharlene from you as you crossed the street?

21 A. We were about shoulder to  
22 shoulder.

23 Q. About how far away was she?

24 A. Pardon me?

25 Q. Just inches away?

1 MARIA EBERLINE

2 A. Yes, just inches away.

3 Q. I understand.

4 Did you experience any difficulty  
5 crossing the street with any depressions or  
6 any imperfections in the street?

7 A. No.

8 Q. But that was your very first  
9 time there?

10 A. Uh-hu.

11 Q. And your last?

12 A. Uh-hu.

13 Q. And your only?

14 A. As far as I know, yes.

15 Q. Okay, all right.

16 And your intention was to get a cab  
17 on Eighth Avenue because that would be the  
18 uptown street and you were going back to  
19 Harlem?

20 A. Yes.

21 Q. Okay.

22 Now have you ever heard a woman who  
23 was involved in the incident, I will call her  
24 Ms. Paradi, okay. Have you ever talked with  
25 her before?

1

MARIA EBERLINE

2

A. No.

3

Q. Have you ever heard her?

4

A. No.

5

Q. Have you ever heard her scream?

6

A. No.

7

Q. But you heard a scream?

8

A. I heard a scream.

9

Q. Did you see who it was that

10

screamed or did you hear the scream and then

11

you turned around?

12

A. I heard the scream and then  
turned around.

14

Q. Were there other people in the  
area?

16

A. Yes.

17

Q. Were some of those people women?

18

A. Probably.

19

Q. I think you said you proceeded  
to the cover and then you turned around; is  
that correct?

22

A. Uh-hu.

23

Q. You were almost at the curb when  
the accident happened?

25

A. Yes, we were almost there

1 MARIA EBERLINE

2 probably a few steps away.

3 Q. Now, when you came to the curb,  
4 did you then proceed over to where the  
5 accident was?

6 A. No.

7 Q. You stayed right there on the  
8 curb?

9 A. Yes.

10 Q. Did you ever go over to where  
11 the accident was?

12 A. Only when, after the ambulance  
13 came and we crossed over to talk to the  
14 police.

15 Q. After they had taken Ms. Paradi  
16 away?

17 A. They were in the process of,  
18 yes, but we didn't want to get in the way.

19 Q. I understand.

20 Did you actually see her when she was  
21 lying on the ground?

22 A. We saw the form of her but not  
23 up close.

24 Q. From a distance?

25 A. Yes.

1 MARIA EBERLINE

2 Q. Four, five lanes away?

3 A. Uh-hu.

4 Q. You never got closer than that  
5 when you she was on the ground?

6 A. No.

7 Q. Do you know whether or not she  
8 was wearing glasses?

9 A. I have no idea.

10 Q. Do you know what kind of  
11 clothing she was wearing?

12 A. No.

13 Q. What color it was, by color I  
14 mean light or dark?

15 A. I think it was dark.

16 Q. Now did you see an umbrella in  
17 the area?

18 A. No.

19 Q. Did you see Ms. Paradi's  
20 companion, whose name is Mr. Blank, did you  
21 see him?

22 A. Yes.

23 Q. Did you talk to him?

24 A. No.

25 Q. Did you hear him talk to anyone?

1 MARIA EBERLINE

2 A. No.

3 Q. Did you hear anyone talk to  
4 anyone other than perhaps Sharlene?

5 A. No.

6 Q. Did you hear Sharlene talk to  
7 anyone?

8 A. No, we were talking to each  
9 other at that point so.

10 Q. And you went over and identified  
11 yourself to the police?

12 A. Yes.

13 Q. Okay. It was it still snowing?

14 A. Very lightly.

15 MR. BUTLER: I would ask that  
16 this photograph be marked, please.

17 (Photograph marked for  
18 identification Defendant's Eberline  
19 Exhibit E A.)

20 MR. BUTLER: Why don't we mark  
21 it Defendant's Exhibit, Eberline  
22 Defendant's Exhibit.

23 THE WITNESS: Eberline.

24 MR. BUTLER: E, A.

25 Q. This is a photograph taken by

1 MARIA EBERLINE

2 the New York City Police Department at the  
3 time of the accident and I would ask you does  
4 that --

5 MR. KAPLEN: Excuse me, it was  
6 not taken at the time of the accident.  
7 You don't know when it was taken.

8 MR. BUTLER: I'll make the  
9 representation that it was taken at  
10 the time of the accident.

11 MR. KAPLEN: At the time of the  
12 accident or hours later, do you know?

13 MR. BUTLER: Within a very  
14 short period directly after.

15 MR. KAPLEN: I object to that.  
16 Would you just show her the picture  
17 without that statement because I  
18 object to that statement.

19 Q. I show you this picture and I  
20 will make a representation to you and the  
21 proofs will show that this photograph was  
22 taken very shortly after and not hours, very  
23 shortly.

24 MR. KAPLEN: Objection.

25 Q. Is that condition what you would

1 MARIA EBERLINE

2 describe as light snow?

3 A. Yes. I mean I have seen some  
4 pretty heavy snows here in New York so.

5 Q. And you consider that light  
6 snow?

7 A. Well, no not really light snow.

8 Q. What would you consider it?

9 A. Moderate.

10 Q. With the snow in that condition,  
11 can you see any of the lines that you could  
12 see in P F4, PLF4?

13 A. I mean seen, I see part of the  
14 crosswalk right there.

15 Q. Where?

16 A. Right here (indicating).

17 Q. Would you please take a pen if  
18 you would and mark where you say you see part  
19 of the crosswalk and this is on Defendant's  
20 Exhibit E A photograph, police photograph.

21 A. Actually no, I can't really see  
22 it.

23 Q. Thank you.

24 A. Sure.

25 Q. As you were standing on the

1 MARIA EBERLINE

2 corner by the H&R Block that would be the  
3 westerly corner?

4 A. Uh-hu.

5 Q. Were cars proceeding down Ninth  
6 Avenue, south on Ninth Avenue?

7 A. Again, I don't really remember,  
8 it was traffic.

9 Q. Were cars proceeding west, as  
10 you were standing there, were cars proceeding  
11 west on 37 street?

12 A. I don't really remember.

13 Q. Were cars turning as you were on  
14 that corner, turning from 37 Street to either  
15 go on to the tunnel or south on Ninth Avenue?

16 A. There were no cars passing in  
17 front of us so.

18 Q. I am talking about when you were  
19 on the corner.

20 A. Uh-hu.

21 Q. I am not talking about when you  
22 were walking?

23 A. I don't really remember.

24 Q. Was either one of you talking on  
25 a cell phone?

1                   MARIA EBERLINE

2                   A.     No.

3                   Q.     Is either one of you a nurse?

4                   A.     No.

5                   Q.     Do you know whether or not a  
6                   nurse just came along, I don't mean any EMTs  
7                   just came along as a nurse?

8                   A.     No.

9                   Q.     Did anyone else come to the  
10                  assistance of Ms. Paradi?

11                  A.     I believe so, yes.

12                  Q.     Did you talk to any of those  
13                  people?

14                  A.     No.

15                  Q.     You were still on the far  
16                  corner?

17                  A.     Uh-hu.

18                  Q.     Do you know whether she was  
19                  lying in a prone or in a, what position she  
20                  was lying in?

21                  A.     I have no idea. We just saw  
22                  basically a form and none of us really wanted  
23                  to cross over.

24                  Q.     Did you make any notice as to in  
25                  what direction she was lying or where she was

1 MARIA EBERLINE

2 with relation, did you make any notice where  
3 she was in relation to the vehicle?

4 A. Yes, she was in the crosswalk.

5 Q. And you could see the crosswalk  
6 in the snow?

7 A. Yes, at that point, yes.

8 Q. You can?

9 A. Yes, I could see where I was  
10 walking and I am sure I was in the crosswalk.

11 Q. How were you sure you were in  
12 the crosswalk?

13 A. Pardon me?

14 Q. How were you sure you were in  
15 the crosswalk?

16 A. Where we were standing, we were  
17 standing within the lines of the crosswalk.

18 Q. Based on that answer, you  
19 crossed over and heard the scream and looked  
20 over and you are basing that on the fact that  
21 the person was within the crosswalk?

22 A. Yes, she was almost directly  
23 behind me so.

24 Q. Oh, you knew that?

25 A. Yes.

1 MARIA EBERLINE

2 Q. As you were walking along you  
3 knew she was directly behind you?

4                   A.        No, I am saying when I turned  
5                   around and where the car was and where the  
6                   body ended up, she was almost directly behind  
7                   me..

8 Q. And this was the car that was  
9 going 40 miles an hour?

10 A. Yes.

11 Q. Do you know where the car that  
12 was 40 miles an hour came from?

13                   A.        From the opposite direction on  
14                   37.

15 Q. Made the turn at 40 miles an  
16 hour?

17           A.     Yes, I don't know if he slowed  
18     down but it seemed he was going about that  
19     fast when he came towards us.

20 Q. Okay.

21 MR. BUTLER: Thank you, very  
22 much.

23 THE WITNESS: Thank you.

24 MR. KAPLEN: Thank you very  
25 much for coming.

1

MARIA EBERLINE

2

THE VIDEOGRAPHER: This marks  
the end of the deposition of Ms. Maria  
Eberline. Total number of tapes used  
today is one. We are going off the  
record the time is 12:57 p.m.

7

8

MARIA EBERLINE

9

10

Subscribed and sworn to before me

11

this day of  
, 2007.

12

Notary Public

13

14

15

16

17

18

19

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21

22

23

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25

1

## 2 C E R T I F I C A T E .

3 STATE OF NEW YORK )

4 : ss.

5 COUNTY OF NEW YORK )

6

7 I, JOWELL FALSETTA, a Shorthand  
8 Reporter and Notary Public within and for the  
9 State of New York, do hereby certify:

10 That MARIA EBERLINE, the witness whose  
11 deposition is hereinbefore set forth, was duly  
12 sworn by me and that such deposition is a true  
13 record of the testimony given by the witness.

14 I further certify that I am not  
15 related to any of the parties to this action by  
16 blood or marriage, and that I am in no way  
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto  
19 set my hand this 2 day of December, 2007.

20

21

22

23

24

25



JOWELL FALSETTA

1

2

I N D E X

3

EBERLINE EXHIBITS

4

No. Ident. Description

5

A 34 Photograph.

6

7

SIGNATURE LINE & JURAT.....page 41

8

9

EXAMINATION BY:

10

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Mr. Butler, pages 17-41

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1  
2  
3 STATE OF NEW YORK )  
4 ss:  
5 COUNTY OF NEW YORK )  
6 I wish to make the following changes, for the  
7 following reasons:  
8  
9

PAGE LINE

CHANGE FROM: \_\_\_\_\_

CHANGE TO: \_\_\_\_\_

REASON: \_\_\_\_\_

23 Subscribed and sworn to before me  
24 this \_\_\_\_\_ day of \_\_\_\_\_, 2007.  
25 \_\_\_\_\_

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